IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

&

THE HONOURABLE MRS. JUSTICE K.HEMA

MONDAY, THE 17TH DECEMBER 2007 / 26TH AGRAHAYANA 1929

MFA.No. 681 of 2001(B)

OPMV.821/1997 of MOTOR ACCIDENT CLAIMS TRIBUNAL, THRISSUR

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APPELLANT:

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1. RAMANI, W/O.LATE MOHANAN,
CHITTAPURATH HOUSE, PURIBAZAR, OOMANKULAM,
P.O.SANTHIPURAM, KODUNGALLUR
(NOR RESIDING AT VAZHAPPILLY HOUSE, BEACH ROAD,
VATANAPPILLY.P.O., THRISSUR DIST.

2. MINOR RAMYA, 9 YEARS, D/O.LATE MOHANAN, DO.

3. MINOR RATHEESH, 8 YEARS, S/O.LATE MOHANAN, DO.

4. KARAPPAN, S/O.CHERUNGORAN,
CHITTAPURATH HOUSE, PURIBAZAR, OMANKULAM,
P.O.SANTHIPURAM, KODUNGALLUR.

BY ADV. SRI.P.V.CHANDRA MOHAN

RESPONDENTS:

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1. N.ABDULLA, S/O.FAKKRU SAHAB,
THAFIQUE HOUSE, BUNDAR ROAD, BHATKAL KARVAR DIST.
KARNATAKA STATE.

2. PARAMESWARAN, C/O.ABDULLA, -DO-.

3. UNITED INDIA INSURANCE CO. LTD. BRANCH OFFICE,
BHATKAL (N.K).

4. P.M.JAMEELA, W/O.BADHARUDEEN, PALAYAMKODE HOUSE,
AZEEKODE, KODUNGALLUR.

5. ANIL, S/O.AANDI, POOTHODU HOUSE, TRIVENI,
S.N.PURAM, KODUNGALLUR.

6. THE ORIENTAL INSURANCE CO. LTD., BRANCH OFFICE,
KODUNGALLUR.

BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL
SRI.P.V.JYOTHI PRASAD

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 17.12.2007, THE COURT ON 17/12/2007 DELIVERED THE FOLLOWING:

J.B.KOSHY & K.HEMA,JJ.

M.F.A.NO.681 OF 20O1

Dated this the 17th day of December, 2007

JUDGMENT

Koshy, J.

A 33 year old coconut tree climber met with a motor accident. His wife, two minor children, aged 8 and 9 years and father filed application claiming compensation of Rs.5,06,700/-. The compensation awarded by the Tribunal was only Rs.2,49,000/-. Only the quantum of compensation is disputed in this appeal. The Tribunal has fixed Rs.1,500/- as monthly income. He was a coconut tree climber. Apart from that, he also used to work as a fisherman. According to the claimants, his monthly income was Rs.3,500/-. He was managing a large family and he was the sole bread winner of the family. It is also submitted that he was getting Rs.150/- daily. Considering the income of a coconut tree climber in the year 1996, we are of opinion that the Tribunal ought to have fixed Rs.2,400/- (average Rs.100 per day) as monthly income. If that be so, after deducting one-third, the loss of family contribution will be Rs.1,600/- per month. The Tribunal has fixed 17 as the multiplier, considering the age of the deceased. Even though it was argued that in view of the increased life expectancy and decrease in the rate of interest, a higher multiplier should be granted, especially taking into account the fact that his wife was only 32 years old and two minor children, aged 8 and 9 years, taking second schedule as guidance, we are not enhancing the multiplier fixed. If that be so, the total compensation

payable will be 1600 x 12 x 17 = Rs.3,26,400/- and after deducting the compensation already granted, the balance compensation payable will be Rs.1,22,400/-. We are of opinion that the compensation granted on other heads are just and reasonable and no enhancement is necessary on other counts. The above amount of Rs.1,22,400/- should be deposited by the third respondent Insurance Company with 7.5% interest from the date of application till the date of deposit, over and above the amount decreed by the Tribunal. On deposit of the above amount, Rs.10,000/- is allowed to withdraw by the 4th appellant (father). Out of the balance, one-third is allowed to withdrawn by the first appellant wife and the entire balance should be deposited in a nationalised bank equally in the name of appellants 2 and 3, enabling them to withdraw the same at the time of their marriage or on attaining the age of 21. The appeal is allowed, partly.

J.B.KOSHY, JUDGE

K.HEMA, JUDGE

vgs.

J.B.KOSHY & K.HEMA, JJ.

M.F.A.NO.681 OF 2001

JUDGMENT

17.12.2007